

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Patrick Lynn, Police Chief/(954)693-8320

PREPARED BY: Daniel J. Stallone, Esq., Code Compliance Official/Police
Administration/af

SUBJECT: Ordinance

AFFECTED DISTRICT: All

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING CHAPTER 6 OF THE CODE OF THE TOWN OF DAVIE ENTITLED "CODE ENFORCEMENT SPECIAL MAGISTRATE" BY CREATING ARTICLE II, ENTITLED "THE MINIMUM HOUSING AND PROPERTY MAINTENANCE STANDARDS CODE OF THE TOWN OF DAVIE."{Approved on first reading on March 23, 2010. The vote is as follows: Mayor Paul - yes; Vice Mayor Starkey - yes; Councilmember Caletka - yes; Councilmember Hattan - yes; Councilmember Luis - yes} (Motion carried 5-0)

REPORT IN BRIEF: The Code Compliance Division seeks to amend Chapter 6 of the Code of the Town of Davie entitled "Code Enforcement Special Magistrate," by adding Article II, entitled "The Minimum Housing and Property Maintenance Standards Code of the Town of Davie." This new code establishes minimum standards governing the requirements applicable to buildings, structures, and real property including vacant parcels and lots. It fixes responsibilities and duties for owners, operators, agents, and occupants. It provides for the condemnation, vacation, and demolition of residential and non-residential buildings, structures and premises that are unfit for human habitation and endanger the health, safety, and welfare of the general population.

PREVIOUS ACTIONS:

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

What account name and number will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve ordinance

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF THE TOWN OF DAVIE ENTITLED “CODE ENFORCEMENT SPECIAL MAGISTRATE” BY CREATING ARTICLE II, ENTITLED “THE MINIMUM HOUSING AND PROPERTY MAINTENANCE STANDARDS CODE OF THE TOWN OF DAVIE.”

WHEREAS, the Town Council of the Town of Davie recognizes that the existing Town code does not contain a minimum housing and property maintenance standards code that can be used by the Town’s code enforcers to require owners of real property within the Town to maintain their properties and that the lack of such a code has resulted in the decline and deterioration of various properties within our neighborhoods and business districts resulting in a negative impact on surrounding property values; and

WHEREAS, The application of a minimum housing and property maintenance code shall further the goals, objectives, and policies contained in the Town’s comprehensive plan and remove those conditions which contribute to the creation of nuisance conditions that adversely affect the health, safety, and welfare of the residents and business community, and that reduce property values and contribute to the decline and deterioration of the neighborhoods and business districts in the Town; and

WHEREAS, the minimum housing and property maintenance standards code has been designed to encourage property owners of non-compliant property to rehabilitate their property, to observe the rules and regulations that will enable the owners, operators and occupants to ensure that such properties will be maintained in a safe and reasonable manner which provides a service to the residents and business community that may

curtail property value decline and improve the appearance of our neighborhoods and business districts; and

WHEREAS, the Town Council has a vested interest in protecting its residential and business neighborhoods from decline and devaluation caused by deteriorating properties, the minimum housing and property maintenance standards code identifies the obligations and responsibilities of owners, operators, and occupants of a dwelling, and provides for the application of penalties when such obligations and responsibilities are ignored; and

WHEREAS, the Town Council concludes that it is in the best interest of the citizens, residents, and business owners of the Town to provide our code enforcers with this new article, so as to provide the means to resolve property problems that cannot be addressed through the existing Town code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. AUTHORITY. The Town of Davie has the authority to adopt this Ordinance

pursuant to Article VIII of the Constitution of the State of Florida.

SECTION 2. ADOPTION. Article II of Chapter 6 of the Code of Ordinances is hereby adopted

As follows:

Article II.
Minimum Housing and Property Maintenance Standards Code.

Sec. 6-15.1. Title.

The title of this Article shall be the “The Minimum Housing and Property Maintenance Standards Code for the Town of Davie, Florida.”

Sec. 6-15.2 Legislative Intent

The provisions of Section 6-15 shall be enforced under the power and authority of the Town of Davie through the Police Department's Code Compliance Division, the enforcing agency. As the enforcing agency, the Code Compliance Division, shall have the jurisdiction to enforce the provisions of Section 6-15, in conformity with the provisions found within Chapter 6, Code Enforcement Special Magistrate, the Town of Davie Land Development Code, and all applicable Florida Statutes.

Sec. 6-15.3. Construction and Applicability

All residential and non-residential dwellings and buildings, vacant property, vacant land parcels, and any other real property located within the Town of Davie, shall comply with the provisions of Section 6-15; this section shall also include any structure or appurtenance attached to or located upon real property except non-residential farm buildings specifically exempted from the Florida Building Code by Chapter 604.50 F.S., and emergency housing provided by the government or non-profit non-governmental agencies in times of local emergency, disaster, or necessity.

(1) The provisions of Section 6-15 shall prevail notwithstanding any work concluded prior to the effective date of Section 6-15, when such work was initiated and/or constructed without appropriate development orders, required Town inspections, building permits, engineering permits, licenses or local business tax receipts, performed or issued, for the use, occupancy, construction or repair of the structure or building, including the installation or repair of equipment or facilities.

(2) The Minimum Housing and Property Maintenance Standards Code shall apply to all areas subject to and within the jurisdiction of the incorporated Town of Davie.

Sec. 6-15.3.1. Jurisdiction; enforcement.

The Town of Davie Code Compliance Division shall have jurisdiction to issue violation correction notices and citations in which violations of this article are alleged pursuant to the Town of Davie Code of Ordinances; provided, however, allegations regarding unsafe buildings and structures shall be administered by the Building Division in accordance with the procedures set forth in the Town of Davie Code of Ordinances and the Florida Building Code, Broward County Edition, as amended from time to time; and provided, however, allegations regarding fire hazard violations shall be administered by the Fire Department and its Fire Inspection Bureau in accordance with the procedures set forth in the Town of Davie Code of Ordinances and/or the Florida Fire Prevention Code in Chapter 633 F.S., as amended from time to time.

Sec. 6-15.4. Definitions

The following terms and phrases when used in Section 6-15 shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense shall include the future, and the singular number includes the plural, and the plural, the singular.

Accessory use or structure shall mean a structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises, is

subordinate to and serves the principal building or principal use; and is subordinate in area, extent, or purpose to the principal building or principal use served.

Alteration shall mean any change or modification of construction, space arrangement or occupancy of a building, or decreasing or not increasing the area or cubic contents thereof.

Appointing Authority shall mean the Town of Davie Town Council.

Approval or Approved shall mean approved by the head of the enforcing agency.

Basement shall mean that portion of a building between the floor and ceiling, which is so located that one-half (1/2) or more of the height from floor to ceiling is located below grade (surface soil).

Blemish shall mean a disfigurement, defacement, defect, injury, or damage to any exterior surface.

Blighted or Blighting Influence shall mean any physical or operational condition which for lack of proper maintenance, directly causes, or is likely to cause, unsafe conditions and/or a reduction in the value of surrounding properties.

Board shall mean and include any of the following: the Code Enforcement Board, Code Enforcement Special Magistrate, or Unsafe Structures Board as maintained by the Town of Davie pursuant to the applicable Florida Statutes.

Boarded shall mean the condition of any building or structure that has its doors, windows, or both doors and windows covered with boarding materials, whether they consist of wood, metal, or other materials, intended to secure the building.

Building shall mean **any** combination of materials to form a structure adapted to permanent or continuous occupancy for use as residential, commercial, industrial, institutional, public, or storage purposes and intended for the shelter, housing, or enclosure of persons, animals or chattel; a structure that encloses space on at least two sides, or a structure which provides protection or shelter for any occupancy. The term "building" shall be construed as if followed by the phrase "or part thereof". When separated by firewalls, each part or section shall be deemed to be a separate building.

Building Code shall mean the current edition of the Florida Building Code, as may be amended from time to time.

Chapter 162 F.S. shall mean Chapter 162 of the Florida Statutes, known also as the "Local Government Code Enforcement Boards Act," as it may be amended from time to time.

Clerk shall mean a Town employee with responsibility for coordinating hearings of the Code Enforcement Special Magistrate or the Unsafe Structures Board.

Code shall mean the Town of Davie Code of Ordinances including all codes, ordinances and state statutes incorporated into the Town of Davie Code by reference, and all other codes included in Section 6-15, as amended from time to time.

Code Inspector shall mean any authorized agent or employee of the Town of Davie whose duty it is to assure code compliance.

Deteriorated or **Deterioration** shall mean the condition or appearance of a building and/or structure, or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, excessive use, lack of maintenance, or loss of structural or system integrity.

Dilapidated shall mean damaged, injured, marred, or decayed to such extent that it is no longer adequate for the purpose or use for which it was originally intended. A building or structure found to be in violation of any of the maintenance standards of this code that makes the structure or building unsafe, shall be considered dilapidated.

Disrepair shall mean in a deteriorated or dilapidated state.

Dormitory shall mean a building, or as at a college or university, that which contains a number of private or semiprivate rooms for student residents, usually along with common bathroom facilities and recreation areas. For the purposes of Section 6-15, a dormitory may be treated as a multifamily residence or rooming house which shall mean any building whose primary function shall be the housing of college students, a fraternity, sorority or similar collegial organization.

Dumpster shall mean a metal or plastic container used to store garbage and trash for disposal.

Dwelling shall mean any building, or groups of buildings containing one or more units designed, used or intended to be used for living, sleeping, cooking and eating and which is used for permanent occupancy, provided that “temporary housing” as defined hereafter shall not be regarded as a dwelling. This term shall include congregate living facilities, group homes, community residential homes, and similar residential facilities as regulated by the State of Florida.

Dwelling Unit shall mean any habitable room or group of habitable rooms located within a building, premises or structure, forming a single habitable unit with facilities used or intended to be used for living, sleeping, sanitation, cooking, or eating.

Egress shall mean an arrangement of exiting facilities to assure a safe means of exit from a building.

Electrical shall mean all work, materials and/or system of electrical wiring for use of light, heat or power, and all appurtenances, apparatus or equipment used in connection therewith, inside of or attached to any building or structure, lot or premises.

Enforcing Agency shall include the Police Department's Code Compliance Division, or other designated agencies of the Town of Davie, as may be applicable thereto.

Enforcing officer shall mean any employee of the Town of Davie herein charged with the responsibility of making inspections of buildings and premises and issuing violation notices when necessary, including code inspectors, code compliance officers, landscape and zoning enforcement inspectors, building inspectors and fire inspectors.

Excessive shall mean detrimental to the health, safety, or welfare of the occupants or the public. Conditions violating standards set by applicable rule, law, or ordinance shall be deemed "excessive".

Extermination shall mean the control of insects, rodents, or vermin or other pests by destroying their living places, by removing or making inaccessible those materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and legal method approved by the State of Florida or the Broward County Health Department.

Extreme Hardship shall mean a condition when a structure does not fully comply with the provisions of this Article, but is structurally sound and does not have safety deficiencies, and when the repair of such structure, in order to assure compliance with the code, would result in great economic hardship to the owner or the occupant of same.

Family or Family Member shall mean spouses, former spouses, persons related by consanguinity or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Fire Hazard shall mean anything or any act which violates the prevailing fire codes of the Town.

FHWA is the Federal Highway Administration, a part of the U.S. Department of Transportation.

Florida Building Code shall mean that edition of said code as set forth in Chapter 553 F.S., Part IV, as amended.

Florida Fire Prevention Code shall mean that edition of said code as set forth in Chapter 633 F.S., as amended from time to time.

Flush water closet shall mean a toilet bowl which is flushed with water which has been supplied under pressure and equipped with a water-sealed trap.

Garbage shall mean the animal and/or vegetable waste resulting from the handling, preparation, cooking, and/or consumption of food; and wastepaper, plastic or related materials used in the packaging and preparation of foods whether attributed to residential or commercial activities.

Good State of Repair shall mean any structure or building that is in compliance with the maintenance requirements of this Article, or the Florida Building Code, or that the materials used in the construction of the structure are sound, stable, and performing the function for which they were intended or that all materials related to the structure are maintained in an acceptable functioning condition for which they were designed.

Good Working Condition shall mean the item is fully operable and functioning for the use for which it was designed and intended.

Graffiti shall mean any writing or drawing on street poles, dumpsters, dumpster enclosures, any side of a building, street signs, etcetera when the writing or drawing is not supposed to be there; any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface of public or private property, including but not limited to, buildings, structures or places.

Habitable Room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets, and storage spaces.

Health Code shall mean the Florida Sanitary Code as established by Chapter 10D of the Florida Administrative Code as amended from time to time.

Hotel shall mean any building or group of buildings containing sleeping room accommodations for three (3) or more guests and providing the services generally provided by a hotel, and recognized as a hotel in the community in which it is situated, or by the industry, is declared to be a hotel, or which must be licensed by the Florida Division of Hotels and Restaurants. For the purpose of Section 6-15, motels and buildings offering dormitory-type sleeping accommodations shall be included in this category.

Hotel Unit shall mean any room or group of hotel rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes. For the purpose of Section 6-15, motel units and dormitory-type sleeping accommodations shall be included in this category.

Infestation shall mean a more than occasional presence of any destructive or disease-bearing insects, rodents, vermin, or other pests.

Inspection warrant shall mean an order in writing, in the name of the people, signed by a person competent to issue search warrants pursuant to F. S. 933.01, and directed to a state or local official, or enforcing officer, commanding him or her to conduct an inspection required or authorized by state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards.

Maintenance shall mean the upkeep of a structure, property, or buildings in a safe condition, and included equipment operating in working order.

Manufactured Building shall mean a closed structure, building, assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured for installation or erection, with or without other specified components, as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structures. A “manufactured building” also includes a “prototype building”.

Mobile Home shall mean a transportable, single-family dwelling intended for permanent occupancy contained in one unit or in two units, designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation.

Mold shall mean *Stachybotrys chartarum* (also known as *Stachybotrys atra*) which is a greenish-black mold that can grow on materials such as drywall or sheetrock, ceiling tiles and wood when they become moist or water-damaged. While *Stachybotrys* is growing, a wet slime layer covers its spores, preventing them from becoming airborne. When the mold dies and dries up, air currents or physical handling can cause spores to become airborne.

Motel shall mean a one or two story building or structure in which the rooms are easily accessible from the parking area.

MUTCD is the Manual on Uniform Traffic Control Devices for Streets and Highways, 2003 Edition, as may be amended from time to time. The MUTCD standard is as follows: Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bikeway by authority of a public agency having jurisdiction.

Multi-Family dwelling shall mean a building that contains two or more residential units, such as may be found in condominiums, Townhomes, or apartments.

Non-Residential Building shall mean any building not used as a dwelling. Examples of non-residential buildings may include agricultural, commercial/retail, industrial, institutional, and civic buildings.

Notices shall mean those courtesy warning or correction violation notices which shall be issued to violators, occupants and/or property owners as set forth in Chapter 162 F.S., as currently enacted or as may be amended from time to time.

Nuisance shall mean any condition that endangers life or health, obstructs reasonable or comfortable use of a property or any activity prohibited by general, special, or local laws or ordinances, including any violation of Section 6-15 and the Town of Davie Code of Ordinances.

Occupant shall mean any person living, sleeping, cooking, eating in, or having actual possession of a dwelling or residential unit.

Official shall mean the person in charge of a department or designated official, or an authorized agent charged with enforcing code regulations within the Town of Davie. The term “Official” shall be synonymous with the head of any “enforcing agency” defined herein.

Operator shall mean any person who has charge, care, or control of a building, or part thereof, in which dwelling units, hotel units, rooming units, or dormitory-type sleeping accommodations are let.

Ordinary Winter Conditions shall mean when the outdoor temperature is fifty (50) degrees Fahrenheit or below.

Other Standards, Reference To shall mean any reference in Section 6-15 to the words “approved”, “adequate”, “adequately”, “properly installed”, “properly connected”, or “properly constructed”. The phrase shall have reference to those standards set out in the Florida Building Code, and the rules or codes of the State of Florida, and any other enactment of law applicable to the structure or the property, or the use and occupancy of the property.

Owner shall mean any person who alone, jointly, or severally with others holds the legal or equitable title to any dwelling, or dwelling unit, including but not limited to a single family residence, condominium, apartment, motel, hotel, rooming house, commercial enterprise, industrial, institutional property, facilities, equipment, or premises with or without having actual possession of the property, and may be identified in the current Broward County Property Appraiser’s public records for Broward County. The term will include the owner’s duly authorized agent, a purchaser devisee, fiduciary, property holder, a mortgagee upon filing any notice of default or lis pendens, or any other person having a vested or contingent interest in, or in the case of leased premises, the legal holder of the lease, or his legal representative. It is intended that this term shall be construed to include any natural or legal person or other entity responsible for the construction, maintenance, and operation of a building, its facilities or the premises involved. Additionally, in the case of multiple or joint ownership, notice to one owner shall be considered for the purposes herein as notice to all multiple or joint owners.

Part of a Building – Whenever the words “structure”, “building”, “dwelling”, “dwelling unit”, “hotel”, “hotel units”, “premises”, “lot”, and “parcel of land” are used in Section 6-15, they shall be construed as though they were followed by the words “or any part”.

Person shall mean and include any individual man or woman, organization, trust, foundation, firm, group, society, corporation, association, partnership, or any combination thereof.

Plumbing shall mean, include, and refer to: 1) The materials including pipe, fittings, valves, fixtures, and appliances attached to and a part of a plumbing or gas system for the purpose of creating and maintaining sanitary, heating, or cooking facilities in buildings, camps, and swimming pools on property where people live, work, shop, play, assemble, or travel. 2) That part of a water supply, sewage, and drainage system extending from either the public water supply mains or private water supply to the public sanitary, storm, or combined sanitary and storm sewers or to a private sewage disposal plant, septic tank, disposal field, pit, box filter bed or any other receptacle, or into any natural or artificial body of water or watercourse upon public or private property. 3) The design, installation or contracting for installation, removal and replacement, repair or remodeling, of all or any part of the materials, appurtenances or devices attached to and forming a part of a plumbing system, including the installation of any fixture, appurtenance or devices used for cooking, washing, drinking, cleaning, fire fighting, mechanical or manufacturing purposes.

Premises shall mean a platted or unplatted lot or vacant parcel of land, or part thereof, occupied or unoccupied by any dwelling or non-dwelling structure(s) and includes any such building or part thereof, accessory structure or other structure thereon.

Principal building shall mean a building or buildings in which is conducted the main or principal use of the premises on which the building or buildings are situated.

Privacy shall mean the existence of conditions which will permit an individual or individuals to carry out an activity commenced without interruption or interference, either by sight or sound by unwanted individuals.

Prototype Building shall mean a building constructed in accordance with architectural or engineering plans intended for replication on various sites and which will be updated to comply with the Florida Building Code and applicable laws relating to fire-safety, health and sanitation, casualty-safety, and requirements for persons with disabilities which are in effect at the time a construction contract is to be awarded.

Refuse shall mean all putrescible (capable of decaying) and non-putrescible solid waste including garbage, rubbish, ashes, and dead animals.

Refuse container shall mean a watertight container that is constructed of metal or other durable material, impervious to rodents, that is capable of being serviced without creating unsanitary conditions.

Renovation shall mean that a property is intended to be made like new again, thereby decreasing negative impacts to the property values of properties in proximity to the nuisance property.

Rental unit shall mean any single-family dwelling, dwelling unit or rooming unit designed, used, or intended to be used for permanent occupancy.

Repair shall mean the replacement or renewal of existing work with the same kind of material, not including additions or new work, for the purpose of maintenance of such building, structure, device, or equipment.

Repeat Violation shall mean a violation of a provision of a code or ordinance anywhere in the Town by a person whom the code enforcement board or the special magistrate has previously found to have violated the same provision of the code in the Town's limits no more than five (5) years prior to the current violation and for which an order was issued by a board or special magistrate.

Replace shall mean to put something new in place of worn, deteriorating or broken material, devices, or equipment, and to restore to original condition.

Rooming House shall mean any building containing one or more rooming units in which space is let by the owner or operator for living and sleeping but not for eating or cooking, or which is required to be licensed by the Florida Division of Hotels and Restaurants as a rooming house. For the purpose of Section 6-15, boarding houses, guest houses, and cabins are included in this category.

Rooming Unit shall mean any room or group of rooms, forming a single habitable unit, used or intended to be used for living and sleeping but not for cooking or eating purposes and which is not categorized as a hotel or motel unit by the Florida Division of Hotels and Restaurants.

Rubbish shall mean all combustible and noncombustible waste materials except garbage, including but not limited to non-operative toys, bicycles, motorcycles, automobiles, mechanical equipment and machines or parts thereof.

Single-Family dwelling shall mean a single dwelling unit that has only one-family living in it, usually consisting of a father, mother, and possibly children, but may include co-habiting couples. Such dwellings are not connected to another dwelling unit.

Special Magistrate shall mean a member of the Florida Bar appointed by the Town Council to hear code enforcement violation cases.

Structurally Sound shall mean the condition of a structure is such that it is free of imperfections and damage which could adversely affect the intended use of the structure, or endanger the health, safety, and welfare of users, inhabitants, or the public.

Structure shall mean that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as followed by the words “or part thereof”.

Supplied shall mean paid for, furnished, or provided by or under the control of the owner or operator.

Temporary Housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not permanently attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days. This definition does not include emergency housing, such as house trailers or mobile homes that are commonly used for displaced residents after a natural disaster, emergency or necessity.

Town Attorney shall mean a member of the Florida Bar appointed as the Town Attorney by the Town Council of the Town of Davie and any designated assistants.

Town Council shall mean the legislative body of the Town of Davie.

Trash shall mean all small discarded materials from around premises which can be deposited in an approved trash receptacle for collection and can be burned or otherwise properly handled at an incinerator.

Unfit for human habitation / occupancy shall mean that a building, structure or premise has been declared by the Town’s special magistrate to be unfit for habitation, occupancy or use due to serious violations of the minimum housing and property maintenance standards found therein.

Unsafe structure shall mean a building, structure or a premise that has been found unfit for human **habitation** occupancy by the Town due to serious building code violations.

Unsafe structures board shall mean the Town’s board invested with the power and authority to declare any building, structure or premises unsafe and unfit for human habitation occupancy, and in certain cases may order its demolition.

Vacant shall mean any real property without structures built on it or a structure or building which is not occupied.

Vermin shall mean all common harmful or objectionable animals or insects that are difficult to control.

Violator shall mean the person responsible for the ordinance or code violation, which in the appropriate circumstances, shall be the perpetrator of the violation, the owner of the real property or personal property, or person legally responsible for the property upon which the violation occurred, or both.

Watertight and **Weathertight** shall mean so constructed that moisture will not enter the enclosure.

Note: The meaning of certain words, for example “dwelling”, “dwelling unit”, “hotel”, “hotel unit”, “rooming house”, “rooming unit”, and “premises” as used in Section 6-15 shall be construed as though they were followed by the words “or any part thereof”.

Sec. 6-15.5. Conflict

Where any provision of Section 6-15 is found to be in conflict with a provision of any zoning, building, electrical, plumbing, fire, safety, or health ordinances, or any regulation adopted pursuant thereto, or any other ordinance, code, or regulation of the Town, the more stringent standard shall prevail.

Sec 6-15.6. Public Nuisance

Violations of Section 6-15 are deemed to constitute a public nuisance and the Town shall have the right to enforce the provisions of this article before the special magistrate or by any code enforcement procedure, or the Unsafe Structures Board, or by any other legal remedy available including but not limited to temporary or permanent injunctive relief, or by civil or criminal prosecution in a court of competent jurisdiction.

Section 6-15.7. Minimum Standards

The enforcing agency is authorized and empowered to adopt such procedures as it may deem reasonable and necessary for the proper administration and enforcement of Section 6-15. All rules and regulations adopted pursuant to the following sections shall be included in the Town of Davie Municipal Code.

Sec. 6-15.8. Responsibility of owners.

(a) Owners of all dwellings and premises governed by this article shall be responsible for the requirements, standards, and responsibilities as set forth in this article unless the content clearly states otherwise.

Sec. 6-15.9. Responsibilities of occupants.

Unless otherwise expressed in this article, occupants of a unit shall be responsible for the following:

- (a) To keep that part of the dwelling and/or premises s/he occupies and/or controls in a clean and sanitary condition.
- (b) To keep all the equipment, sanitary facilities and fixtures within the dwelling s/he occupies in a clean and sanitary condition and to exercise reasonable care in the proper use and operation thereof.
- (c) To properly dispose of rubbish, garbage, refuse and other waste material as provided by law or ordinance.
- (d) The extermination of any insects, rodents or other pests within the rental unit unless the infestation is caused by failure of the owner to maintain the premises in an insect-proof, rodent-proof condition.
- (e) Not to allow animals or pets to be kept in such a manner as to create unsanitary conditions.
- (f) Not to destroy, deface, damage, impair, or remove any part of the premises or property under the control of the occupant.

Sec. 6-15.10. Minimum standards for maintenance of premises.

The premises, buildings and/or structures governed by this article shall be kept free of all nuisances, any hazards to the safety of the occupants, pedestrians and all other persons utilizing the premises and free of all unsanitary conditions. For the purpose of this section, the minimum standards criteria, nuisances, hazards and unsanitary conditions include but are not limited to the following conditions:

- (a) Ground surface hazards such as, but not limited to, holes, excavations, broken glass and dangerous projections.
- (b) Excrement of pets and other animals on the driveways, parking areas, play areas, paths or walks or other pedestrian ways.
- (c) Property which is not graded, drained and maintained so as to eliminate any standing water or to prevent dampness to the foundation, floors, exterior walls or structures located on the property.
- (d) Garbage receptacles which are not maintained in a good state of repair and which are not equipped or provided with tight fitting covers to prevent flies, insects, rodents or animals from gaining access to the contents.
- (e) All single and multifamily residential property owners not providing and maintaining approved residential garbage removal service from the Town's solid waste franchised collector shall apply for and maintain such residential removal service.
- (f) All residential, commercial and industrial property owners, licensed general contractors, any unlicensed handyman, all commercial businesses and industrial establishments shall be subject to all of the applicable requirements found in the Town's exclusive solid waste franchise agreement including but not limited to the collection and disposal of all construction and demolition debris as defined in said contract when generated at construction sites, except for single family residential remodeling construction and demolition debris under certain specified conditions. Builders, building contractors, construction tradesmen, handymen or women, and developers shall be responsible for the excavation, construction, demolition and land clearing waste

emanating from their work and shall use the Town's designated franchise hauler for such removal and disposal.

(g) All shared and/or public areas of the premises shall be kept in a clean and sanitary condition. Shared or public areas shall include but shall not be limited to, yards, courts, driveways, lawns, restrooms, laundry rooms, meter rooms and storage rooms.

(h) Numerical address, contact information to be current and posted

(1) All residential, commercial, and other real property shall be identified with numerals no less than four (4) inches or greater than ten (10) inches in height; all numerical markers used shall be of a contrasting color different from the structure's primary color; any residential mailbox shall display the applicable address in letters no less than or greater than four (4) inches.

(2) All commercial, industrial, and office buildings shall have the numerical address displayed in a conspicuous manner at both the front and rear entrances of each separate tenant in the building.

(3) All commercial, industrial, or office buildings shall include, along with the address number at each separate tenant location, the name of each business operated at the location, and current contact information, including the business owner's name and emergency contact telephone number;

(4) It shall be the responsibility of the property owner to insure that all tenant and business operator contact information shall be updated upon the vacation or removal of such tenant or business; it shall be the responsibility of the tenant or business operator to keep the required contact information current at all times during their occupancy.

(5) All commercial, industrial, and office buildings shall be posted with a sign no greater than four (4) square feet that contains the building address, the property manager's name and emergency contact telephone number to be placed on both the front and rear of every building with letters no smaller than four (4) inches in height and identified by a contrasting color from the primary building color to be titled with bold capital letters and headed with the term, "EMERGENCY CONTACT INFORMATION" in red lettering to be placed upon at least two (2) building corners at a location no less than six (6) feet above grade.

(6) The sign used for the display of addresses, emergency or telephone contact numbers and other relevant information shall consist of a weatherproof material that is permanently anchored to the surface upon which it is affixed.

(i) Playground equipment on private property

(1) The placement of playground equipment including but not limited to basketball hoops, skateboard ramps, swings, trampolines or similar items shall not be located in the existing zoning side setbacks for any residential property.

(2) The height of any playground equipment shall be no greater than the first floor elevation for any residential structure located upon said property.

(3) All playground equipment shall be properly anchored to the ground to insure its safe operation and maintenance as may be determined by the Town.

(j) Swimming pool maintenance and disposal of pool water

(1) Swimming pools located on private or public property are to be maintained so as to promote the health, safety, and welfare of persons on the property, adjacent properties, and the surrounding community in general.

(2) Pools and spas shall be maintained in a sanitary manner. Sanitary pool or spa water means that the water shall remain free and clear of pollutants, debris, mosquito breeding or vermin infestation.

(3) Swimming pools that contain stagnant water are deemed unsanitary and dangerous to human life and public welfare and shall be declared a public nuisance.

(4) Pools and spas shall comply with the pool enclosure safety requirements of both the Town code and the Florida Building Code at all times.

(5) Swimming pool water may be disposed of by draining into and upon the property owner's lands or into the storm water drainage system. At no time may such waters flood the adjacent private or public properties, private or public streets or any sanitary sewer system.

(k) Nuisance to be declared.

(1) The failure of any property owner or occupant to maintain in an active and operable condition its utility services, including but not limited to water, electric, natural gas or similar utility service, or to ensure the maintenance of any interior premises in such manner that adjacent properties are not subject to odors, vermin, fire hazards, or similarly injurious conditions to health and safety shall be sufficient cause for the enforcing agency to declare said premises a nuisance.

(2) After the declaration of any premises as a nuisance based upon the existence of any conditions cited in section (k)(1), the enforcing agency may submit the existence of such conditions as prima facie evidence to the special magistrate in an emergency or other hearing for a determination that said dwelling or structure is unfit for human habitation.

(3) Upon the declaration of a premise as a nuisance that finds said premises unfit for human habitation by a special magistrate, the property owner or occupant shall be notified by a posting of the special magistrate's Order upon said premises that shall state the date for evacuation of the premises. The special magistrate's Order shall be enforced by the enforcing agency and the Davie Police Department, and the failure to comply with said Order by the owner or occupant shall constitute a misdemeanor offense and subject them to a notice to appear in a county court or any similar legal remedy under Florida law.

(4) The owner or occupant may appeal the Order of a special magistrate that such premises are unfit for human habitation by filing the necessary documents in the circuit court in a timely manner not to exceed thirty (30) days following that Order's issuance.

Sec. 6-15.10.1 Vacant land parcel maintenance requirements

(a) The following maintenance requirements shall apply to a vacant property or vacant land parcel that is being prepared for development when a hiatus in construction or development shall occur that exceeds one hundred twenty (120) days and where the following conditions, individually or in combination, may be found to exist:

(1) Any trees, shrubs or vegetation uprooted during clearing, excavation or development activities kept on the property shall be removed;

(2) Trenches excavated for water and sewer pipes that remain unfilled shall be safely cordoned off or refilled;

- (3) Any conduit or pipes for water, sewer, and/or electrical repairs or installation deposited on the property which has not been installed and buried as part of such installation shall be removed;
- (4) Any asphalt or concrete debris from construction or excavation on the property shall be removed from the property; and,
- (5) Pre-construction materials kept or stored on the property shall be removed;
- (6) Open spaces or parks and recreational areas without structures on the property that have been designated for general public use are not considered vacant property for purposes of enforcing this section.
- (b) Ground cover shall be required to stabilize soil in vacant land parcels.
- (1) In addition to erosion control requirements found in the Town's code and engineering best practice standards, a vacant land parcel that results from approved clearing, construction or demolition activity and which contains more than twenty-five hundred (2,500) square feet of unstabilized soil, as defined herein, shall within one hundred twenty (120) days of the cessation of construction or similar activities associated with any development order including but not limited to a site plan approval, building permit or special permit, be stabilized with bahia sod, native seed grass, or similarly approved ground cover, until such time that approved development or redevelopment of the parcel commences. The date of cessation of construction activities may be determined by the last occurrence of a documented inspection, issuance of any development order or the decision of the enforcing agency.
- (2) This requirement shall not apply to vacant public lands, medians, or rights-of-way, any vacant land parcels in the A-1 or AG zoning districts, or the M-1, M-2, or M-3 industrial zoning districts; for purposes of this section, "unstabilized soil" shall mean soil surfaces which are either devoid of vegetation or only sparsely vegetated with natural seed growth and subject to erosion.
- (3) Any sod, seed grasses or approved ground covers shall be properly maintained so as to promote a healthy appearance at all times up to the completion of approved development activities.

Sec. 6-15.11. Minimum standards for interior of structures.

The interior of all structures and/or buildings governed by this chapter shall be properly maintained in accordance with the following standards. In addition to dwelling units, the interior of the structure shall, if applicable, include but not be limited to laundry rooms, storage rooms, meter rooms and recreational rooms and all other shared and/or public areas.

- (a) Electrical equipment, maintenance and installation requirements.
- (1) All electrical switches, electrical outlets, electrical wiring and other electrical fixtures shall be installed and maintained so as to avoid the possibility and danger of electrical shock or malfunction and must be maintained in good working condition.
- (2) All electrical switches, electrical outlets and other electrical fixtures shall be installed and maintained.
- (3) Every public hall, public stairway and other non-habitable public space or area located within or on the exterior of the structure shall be provided with properly installed electric lighting facilities capable of providing illumination throughout.

(4) Every habitable room shall have electric outlets and/or electric fixtures properly connected to a source of power. There shall be a minimum of one outlet and one fixture or two outlets.

(5) Every bathroom, shower room, toilet room or compartment, located in a structure used for human habitation, shall have permanently installed artificial lighting fixtures. The switches shall be so located as to avoid danger of electrical hazards.

(b) Plumbing, sanitary facilities and related equipment maintenance and installation requirements. Each dwelling unit shall have not less than the following:

(1) A flush water closet, lavatory basin and a bathtub or shower shall be required for every dwelling unit;

(2) All plumbing fixtures shall be properly connected to approved water, sewer or gas systems. Where a sewer system is not available, drain lines shall be connected to an approved septic tank.

(3) Every plumbing fixture, water pipe, waste pipe, gas line and drain line shall be maintained in good working condition and free of leaks, defects and obstructions.

(4) An approved type kitchen sink, lavatory basin, bathtub and shower shall be supplied with hot and cold water. Hot water shall mean water heated to a temperature of not less than one hundred twenty (120) degrees Fahrenheit measured at faucet outlet; all water heating facilities shall be properly installed, connected and maintained in a safe and good working condition.

(c) Each unit shall provide privacy for accessibility to toilet and bath facilities.

(1) All water closets, urinals, bathtubs and showers shall be located in a room or rooms which afford privacy to the user;

(2) Rooms containing water closets, urinals, bathtubs or showers shall be not more than one story removed from the rooming unit of any occupant sharing the facilities;

(3) All toilet and bath facilities shall be so located so as to be accessible without going outside of the building or without going through a dwelling unit, or rooming unit of another occupant;

(4) No electric water heater shall be allowed in any bathroom unless the water heater and all electrical connections are totally encased in a non-conductive material or the water heater is installed in such a manner as to avoid any probability of shock hazard;

(5) Every occupied dwelling unit shall have proper utility connections for cooking facilities.

(d) Ventilation equipment, maintenance and installation requirements.

(1) Every habitable room shall have at least one window with a minimum total area of not less than ten (10) percent of the floor area of the room or a skylight with a minimum total area of not less than fifteen (15) percent of the floor area of the room, except windows or skylights shall not be required in those bathrooms, shower rooms and water closet compartments equipped with an adequate and properly functioning ventilating system which was permitted and inspected in accordance with the Florida Building Code.

(2) All windows and skylights shall face or open directly to a non-habitable area.

(3) Every habitable room shall be ventilated directly outdoors. Such ventilation shall be provided by an open area equal to fifty (50) percent of the required minimum window or skylight area or by satisfactory mechanical ventilation complying with the Florida Building Code.

(e) Pests, Insects and Rodent extermination requirement. The owner shall be responsible to make reasonable provisions for extermination on the following cases, except as provided by F.S. § 83.51:

(1) When infestation exists in one or more units of a multiple-unit structure.

(2) When infestation exists in shared or public areas of a multiple-unit structure.

(f) Windows and Screens.

(1) Every window other than a fixed window shall be capable of being easily opened and closed, be equipped with fully operable hardware, have a functional locking device and kept in good working condition.

(2) All screens shall be free of holes, tears or other defects and maintained in a good state of repair.

(3) Every window shall be weather-tight, maintained without cracks and/or holes and kept in a good state of repair.

(g) Exterior doors.

(1) Every exterior door shall be capable of being easily opened and closed, be equipped with fully operable hardware, have a functional locking device and be kept in a good state of repair.

(2) Every exterior door and supplied screen door shall be weathertight, weatherproof, maintained without cracks and/or holes and kept in a good state of repair.

(h) Porches, balconies, decks, exterior stairs, walkways and appurtenances.

(1) Every porch, balcony, deck, exterior stairs, walkways and every appurtenance thereto shall be constructed and maintained so as to be safe and capable of supporting the loads for which it is intended and used, and shall be kept in a good state of repair.

(2) All protective railings or protective handrails shall be capable of supporting the load to which it is intended and subjected and kept in a good state of repair.

(i) Supplied facilities and equipment.

(1) Every supplied facility and piece of equipment including but not limited to heating units, air conditioners, washing machines and clothes dryers, etc., intended to be utilized by a tenant or occupant shall be installed and maintained in a legal, safe, and sanitary manner and kept in good working and operable condition.

Sec. 6-15.12. Minimum standards for area, use and location requirements.

No person shall occupy, or let to another for occupancy, any dwelling unit for the purpose of living, which does not comply with the following requirements:

(a) Every dwelling unit shall contain a minimum gross floor area (GFA) of at least one hundred fifty (150) square feet for the first occupant, and not less than one hundred (100) square feet for each additional occupants. Floor space shall be calculated on the basis of total habitable room area.

(b) At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet. Any portion of a room having a ceiling height of less than five (5) feet shall not be considered in computing the total floor area of such room.

(c) Every dwelling unit which is occupied by two (2) or more occupants, and which contains a room not intended primarily for cooking or sleeping but which is properly designed and equipped or especially furnished with a kitchenette and bed furniture properly designed for daytime storage or other daytime uses to be maintained as a

combination of regular living and efficiency sleeping, may contain one hundred (100) square feet less gross floor area than required in section (a). Every habitable room shall have a minimum ceiling height of seven (7) feet over fifty (50) percent of the floor area. Any portion of a room having a ceiling height of less than five (5) feet shall not be considered in computing the total floor area of such room.

(d) Required space in sleeping rooms.

In every dwelling unit of two (2) or more habitable rooms, every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum gross floor area of fifty (50) square feet per occupant thereof. In the case of children under six (6) years of age, the requirement shall be thirty-five (35) square feet per child for two (2) or more children. Every room used for sleeping purposes, shall have a minimum width of seven (7) feet. Kitchens shall not be used for sleeping purposes. Every habitable room shall have a minimum ceiling height of seven (7) feet over fifty (50) percent of the floor area. Any portion of a room having a ceiling height of less than five (5) feet shall not be considered in computing the total floor area of such room.

(e) Required space in rooming units.

Rooms let to one (1) or more persons shall contain a minimum gross floor area for sleeping purposes of ninety (90) square feet for a single occupant, and every such room occupied by more than one (1) occupant shall contain a minimum gross floor area of sixty (60) square feet per occupant thereof. Every habitable room shall have a minimum ceiling height of seven (7) feet over fifty (50) percent of the floor area. Any portion of a room having a ceiling height of less than five (5) feet shall not be considered in computing the total floor area of such room.

(f) Habitable rooms only.

(1) No room other than a habitable room shall be used for living, sleeping, or the preparation or eating of meals.

(2) Any improper use of any room as a habitable room shall constitute a nuisance and subject the owner and occupant to additional enforcement action, including the scheduling of an emergency hearing before the special magistrate. Such hearing shall be for the determination of an Order that such premises are unfit for human habitation.

(3) Outdoor lodging, tents or camp grounds are not considered habitable rooms and shall constitute a nuisance subject to this section and other Town codes and ordinances.

(4) The improper use of recreational vehicles, camp vehicles, pop-up tents and similar facilities shall be considered as violations of this code section and are prohibited uses in the Town except as a permitted use in the applicable zoning districts.

(g) Subdivision of habitable rooms.

No habitable room shall be divided in any manner into space intended for living, sleeping, eating or cooking purposes by an installed partition or divider of any type above four feet in height unless each such subdivided part complies with the requirements for a habitable room.

(h) Notice of maximum occupancy.

Every owner or operator shall advise the occupant in writing or by insertion in the lease between the parties of the maximum number of occupants permitted in the occupied

premises under this article. A copy of such notice or lease shall be posted in a conspicuous manner on the premises and available to the enforcing officer.

(i) Accessibility to bathrooms.

No dwelling or dwelling unit containing two (2) or more sleeping rooms shall be so arranged that access to a bathroom, shower room, or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room, or water closet compartment be allowed.

(j) General interior maintenance requirements.

(1) Supplied cabinets and/or shelves. Supplied cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils shall be maintained in a sanitary condition and kept in a good state of repair;

(k) Supplied facility and equipment.

(1) Every supplied stove or similar device in every occupied dwelling unit shall be properly installed and maintained so that all burners and/or cooking elements shall be in good working condition.

(2) Every supplied refrigerator or similar device for the safe storage of food in every occupied dwelling unit shall be properly installed, maintained in good working condition and be capable of maintaining a temperature of less than forty (40) degrees Fahrenheit in the refrigerated section and zero (0) degrees Fahrenheit in the freezer compartment..

(3) Supplied heating facilities or similar device in every occupied and permitted rental unit, shall be properly installed and maintained in good working condition so as to maintain the interior temperature of all habitable space at sixty-five (65) degrees Fahrenheit.

(l) Light--Uninhabitable space.

Every stair and hallway located in a structure used for human habitation shall have either adequate natural or artificial light available at all times with not less than three footcandles of light measured at any point.

(m) Light--Public halls and stairways.

Every public hall and common stairway located in a structure used for human habitation and which is used primarily for ingress and egress in connection with two or more dwelling units or rooming units shall be supplied with a proper amount of natural light or lighting facilities controllable by the occupants of the structure and be available at all times. Such light shall not be less than five footcandles measured in the darkest portions of normally traveled stairs and passageways during the darkest hours of the day.

(n) Floors.

(1) Floor surface in water closet compartments, bathrooms, and shower rooms shall be of an approved material such as but not limited to vinyl, plastic, rubber, ceramic tile, terrazzo, linoleum or other durable water proof, non-absorbent material, impervious to water and such floors shall be in good state of repair and properly maintained in a clean and sanitary condition.

(2) Every interior floor shall be free of holes, breaks, cracks and shall be free of any loose, warped, or protruding, rotten or missing materials and shall be kept in good state of repair.

(3) Every interior floor shall be adequately protected against the passage and/or harborage of insects and/or rodents and shall be kept in a good state of repair.

(4) Every interior floor in a multi-family dwelling shall be provided with an insulating sound barrier between wood, ceramic, marble or similar hard material tiles or flooring and the concrete floor base so as to suppress and prevent the noise transmission to and among separate dwelling units in the same building; other approved methods may be substituted if approved by the Florida Building Code as amended.

(o) Walls and partitions.

(1) Every interior wall and interior partition, shall not be loose, warped, protruding, rotten or have missing materials and shall be kept in a good state of repair.

(2) Every interior wall and interior partition shall be adequately protected against the passage and/or harborage of vermin and/or rodents and shall be kept in a good state of repair.

(p) Ceilings.

(1) Every interior ceiling shall be free of holes, breaks, cracks and shall be free of any loose, warped, protruding, rotten or missing materials and shall be kept in good state of repair.

(2) Every interior ceiling shall be adequately protected against the passage and/or harborage of vermin and/or rodents and shall be kept in a good state of repair.

(q) Doors.

(1) Every interior door shall be free of holes, breaks, cracks and shall be free of any loose, warped, protruding, rotten or missing materials and shall be kept in good state of repair.

(2) Every interior door shall be capable of being easily closed and opened and equipped with fully operating hardware.

(3) Every interior door shall be maintained in such a condition to insure the door fits properly to the door frames when the door is closed.

(4) Every interior door frame shall be maintained in such a condition to insure the door frame fits properly to the wall.

(r) The walls, partitions, doors and ceiling shall be kept painted so as to present a clean and smooth, unblemished appearance.

(1) No lead based paint shall be permitted in any habitable or non-habitable areas of any dwelling.

(2) No interior walls, partitions, doors, floors, ceilings or premises shall be subject to mold growth and damage associated with such conditions shall be remediated by the owner in a professional, safe and healthy manner.

(s) Stairways, hallways, corridors and appurtenances.

(1) Every interior stairway, hallway, corridor and all appurtenances thereto shall be maintained in a safe condition and capable of supporting the loads of which it is intended and used and shall be kept in good state of repair.

(2) Every interior stairway, hallway, corridor and all appurtenances thereto shall be adequately lighted by natural or electrical lights at all times, so as to provide effective illumination in all parts thereof.

(3) All protective railings or protective handrails shall be maintained in good repair and capable of supporting the load to which it is intended to be subject. Any loose, missing or broken handrail supports or parts thereof shall be repaired and maintained at all times.

Sec. 6-15.13. Minimum standards for exterior of structures.

The following general requirements shall apply to all dwellings and structures including residential and non-residential dwellings and buildings, such as single-family and multi-family residential dwellings, condominiums, apartments, hotels, motels, rooming houses, rooming units, vacation rentals, and all non-residential buildings including commercial, industrial, institutional, structures of worship, mixed-use, and any other real property not included herein above and located within the Town of Davie.

(a) Foundations.

(1) Every foundation shall be watertight, weathertight and rodent-proof.

(2) Every foundation shall be structurally sound and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in a good state of repair.

(b) Exterior walls.

(1) Every external wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain water or dampness to the interior.

(2) Every external wall shall be watertight, weathertight and rodent-proof.

(3) Every external wall shall be structurally sound and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in a good state of repair.

(4) Every external wall with wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective coverings or wood treatment and kept in good repair without cracked or peeling surfaces.

(5) Every external wall without wood surfaces must be painted in accordance with acceptable standards and all siding material must be kept in a good state of repair.

(6) Every exterior wall shall be kept free of mold, water stains, discoloration, peeling paint or any similar surface conditions that affect the aesthetic appearance thereof and may cause devaluation of adjacent and neighborhood properties.

(7) All exterior walls shall be free of graffiti at all times. When graffiti is found upon any exterior wall, accessory structure, personal property, motor vehicle, trash containers or any other surface owned by and located within the subject property boundaries, the enforcing agency may initiate any enforcement action approved by the Town's Code of Ordinances.

(8) The exterior walls of premises with a wood stain that has faded or discolored are to be re-stained using the original stain color.

(9) No exterior walls shall contain, display or be maintained so as to permit mold growth or stains associated therewith to exist on such premises.

(10) Any applicable commercial or other buildings and structures within the Community Redevelopment Agency (CRA) District shall be subject to an exterior wall color approved by the CRA Administrator in the course of the site plan review and/or modification procedures subject to Town Council approval.

(c) Roofs.

(1) Every roof shall be free of holes, breaks, loose tile or shingles or rotting boards or timber and other conditions which might admit rain water or dampness to the interior.

- (2) Every roof shall be watertight, weathertight and rodent-proof.
- (3) Every roof and its component parts shall be structurally sound and kept in a good state of repair.
- (4) Every roof and its component parts with wood surfaces, other than decay resistant wood, shall be protected from the elements and decay by paint or other protective covering or treatment and maintained in a good state of maintenance and appearance.
- (5) Every roof should be so designed and maintained to provide proper drainage for rainwater and the prevention of standing water.
- (6) Gutters and downspouts, where in existence, shall be maintained in a good state of repair so as to permit the transmission of storm water in an approved manner upon the owner's property. If needed to alleviate flooding or retention of storm water, gutters and downspouts may be required by the enforcing agency.

Section 6-15.14 Maintenance standards of exterior premises.

The exterior of the premises, both residential and non-residential, shall be kept free of all nuisances, hazards to the safety of the occupants, pedestrians, and other persons utilizing the premises. These requirements include the elimination of any unsanitary conditions and infractions of this code.

It shall be the duty of the property owner or occupant to keep the premises free of hazards and unsafe or unsightly conditions which include, but are not limited to:

- (a) Refuse such as brush, weeds, broken glass, tree stumps, roots, obnoxious growths, filth, garbage, trash, and debris shall not be permitted on the premises.
- (b) Any trees, including native or invasive species, having dead and dying limbs or other natural or manmade conditions which, by reason of rotting and deteriorating conditions, structural deficiencies, improper tree pruning and hacking, or storm damage, that constitute an immediate life safety hazard to neighboring persons and property shall be removed by the owner. All such work shall require permit application to the planning and zoning division and advisement of a certified arborist.
- (c) Over-hanging, and loose objects which by reason of their location above ground-level constitute a danger of falling onto persons in the vicinity thereof shall be removed.
- (d) Ground surface hazards such as holes, excavations, ungraded grounds, projections or obstructions shall be filled to grade level; all walkways and paths shall be level and have steps replaced where necessary to eliminate hazardous conditions.
- (e) Any pet owner or the person in charge of the pet at such time who may permit such pet to create an unsanitary condition shall thereafter be responsible for the subsequent and immediate removal of that unsanitary condition in an approved manner. The excretions of pets and other animals on paths, walks, driveways, parking lots, parking areas, and other parts of premises accessible to the public shall constitute a sanitary nuisance and shall be removed to an approved disposal facility.
- (f) Sources of infestation, such as insects, bees, birds, bats, reptiles, rodents, etc., shall be kept exterminated by the property owner.
- (h) Wildlife shall not be kept, fed or otherwise maintained on any premises by a resident or person in the Town when such actions constitute a nuisance to the public at large.

- (g) Accumulations of storm water due to the erosion or deterioration of pre-existing berms or similar engineering features shall be prohibited and repairs shall be made by the property owner as required to restore all engineering features required by the Town.
- (h) Chimneys and all flue and vent attachments shall be kept in good repair. Chimneys and all flue and vent attachments shall be maintained structurally sound, free from defects, and capable to perform at all times those functions for which they were designed.
- (i) Exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free from defects at all times.
- (j) The exterior appearance of the premises, the exterior of structures, and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a nuisance or blighting condition that can negatively affect adjoining property.

Section 6-15.15. Minimum landscape standards.

- (a) All owners of land shall be responsible for any landscape materials on their property, including but not limited to, mowing and maintenance of all front, side and rear yards.
 - (1) Public and private property owners, including homeowner and condominium associations, shall be responsible for the care and maintenance of all landscape materials such as groundcover, grass, sod, bushes and trees located in the abutting public or private rights-of-way, swales, lake and canal banks.
 - (2) Landscaping on all premises shall be maintained in good condition so as to present a healthy, neat and orderly appearance similar to the original approved site installation.
 - (3) Landscaping shall be maintained such that it will not cause property damage or encroach upon abutting neighboring properties in any way that constitutes a public or private safety hazard.
 - (4) A property owner shall remove any living, dead or decaying plant material, or low hanging branches below twelve (12) feet above grade over public or private sidewalks, paths or walkways and any parts of trees, bushes or similar vegetation that obstruct public or private street lighting, traffic signs or that may pose any visual impediment to vehicular or pedestrian traffic.
- (b) Irrigation systems shall be maintained to eliminate water loss due to damaged, missing or improperly operating sprinkler heads, emitters, pipes and all other portions of the irrigation system and shall not be installed or operated to place water on roads.
- (c) All water usage shall conform to the existing allowable or mandated water use schedules as may be promulgated by the South Florida Water Management District or the existing Town of Davie requirements.
- (d) The property owner, tenant, and occupant shall be jointly and severally responsible for the maintenance of landscape materials and irrigation systems. Landscape maintenance shall include watering, weeding, mowing, treating, mulching, trimming, removal/replacement of dead or diseased plants and removal of refuse and debris on a regular basis so as to continue a healthy growing condition and present a neat and well-kept appearance at all times.

(e) Landscaping shall be maintained according to the Town-approved landscape site plan or Town Code of Ordinances as amended. Grasses and weeds are not to exceed a maximum height of eight (8) inches on any property not zoned agricultural or operated as a designated farm.

(f) Property owners, managers, and other responsible parties are encouraged to use Xeriscape methods of landscaping that emphasize water conservation;

(g) Property owners, managers, and other responsible parties are encouraged to use indigenous species of native grasses, trees, and plants for landscape areas.

Section 6-15.16 Maintenance of rights-of-way and swales on public or private property.

(a) Maintenance responsibility. It shall be the responsibility of the adjacent private property owner to maintain the rights-of-way or swale area in public or private property.

(1) Such areas shall be kept free of trash and debris, except on approved community bulk trash pickup days; and

(2) Grass or weeds shall be kept cut no higher than eight (8) inches and edged away from the sidewalk and roadway; and

(3) Landscape material including but not limited to shrubs and bushes shall be kept trimmed to a height not to exceed three (3) feet from grade and provide unrestricted visibility at all private and public driveways and street intersections; and

(4) Overhanging branches of trees shall be pruned to a height of at least twelve (12) feet above grade; and

(5) The swale shall be kept free and clear of prohibited species set forth in the Town Code of Ordinances as may be amended from time to time.

Section 6-15.17 Nuisance conditions in public or private rights-of-way; Town's right to correct certain conditions potentially injurious to citizens.

(1) The enforcing agency shall have the authority to remove any decorative items, including but not limited to traffic bumpers or cones, concrete pyramids, donuts, plants, bushes, trees, or similar vegetation in the public or private rights-of-way that constitute a public nuisance and hazard to the life, safety, or health of citizens in the Town.

(2) Under ordinary conditions, the Town shall provide sufficient notice to the owners of such decorative items, including but not limited to traffic bumpers or cones, concrete pyramids, donuts, plants, bushes, trees, or similar vegetation so that such owner may undertake the correction thereof, however in any emergency situation that requires the Town to undertake immediate action to remove conditions that constitute a nuisance and hazard, the Town may do so without notice or reimbursement to the owner.

Section 6-15.18. Maintenance of canal rights-of-way and easements.

(a) No owners of land or any persons employed or under their control shall deposit in any of the waters of lakes, ponds, canals, ditches or waterways within the Town, any rubbish, filth, construction debris, litter, garbage, grass cuttings or poisonous or deleterious

substance or substances liable to affect the health, safety and welfare of persons or fish within the waterways.

(b) It shall be the responsibility of the adjacent property owner to maintain the appearance of the canal right-of-way, easement or waterway area to the following minimum standards:

(1) The canal right-of-way, easement or waterway area shall be kept free of trash or debris; and

(2) Grass and similar groundcover shall be kept no higher than eight (8) inches.

(3) Overhanging branches of trees shall be pruned to a height of at least twelve (12) feet above grade and be free and clear of the waterway, and

(4) The canal right-of-way or easement area shall be kept free and clear of prohibited species, as defined in the Town Code of Ordinances as may be amended from time to time.

(5) All canals, lakes and other bodies of water shall be kept free of nuisance aquatic plants and in no instance shall any body of water have a surface covering of any type or species of aquatic plant.

Section 6-15.19. Off-street parking minimum standards, rules and regulations

(a) All private parking facilities and related structures provided for any buildings and structures shall be maintained in a safe, secure, and attractive condition. Deteriorated or rusted metal coverings as part of an existing or replacement carport structure shall be repainted, repaired, or replaced in order to provide a safe and attractive appearance that will prevent blighted conditions.

(b) All off-street parking facilities shall be identified by signage only if the purpose of the facility is not clearly evident from a street or alleyway.

(c) All off-street parking facilities shall be surfaced with asphalt, concrete or similar approved hard, dustless material and maintained in a smooth, well-graded condition.

(d) All parking lots shall meet applicable design standards that require storm water to dissipate from the parking area within a twenty four (24) hour period.

(e) Lighting standards for all parking facilities are contained within the Town of Davie Land Development Code (LDC) Article VIII Division 2, Lighting, Section 12-260 (1) through (6).

(f) All pavement markings, striping, painted surfaces, and signage shall be in conformance with the approved Town engineering standards and maintained in good repair.

(g) All parking spaces, wheel stop bars, directional arrows, centerlines, edge lines, and pavement markings must be painted properly and be well-defined at all times. White paint is permissible for delineating the parking spaces, while yellow paint is required for curbing and wheel stops. Blue paint is required for the identification of handicapped parking spaces, wheel stops, and curbs.

(h) The owners/operators of all off-street parking facilities shall maintain stop signs and all other traffic signs in accordance with the size, height, material, design, location, visibility, and clarity requirements provided in the "Manual of Uniform Traffic Control Devices."

(i) All landscaping located on off-street parking lot accessways to a public or private roadway shall be maintained so as to provide unimpeded visibility of traffic from all directions within the sight triangle. The sight triangle is described in Article VI Sight Landscaping, Section 12.109(A)(1)(2), and Article VII Off-Street Parking Requirements, Section 12.205(A)(6)(a)(b) of the Town Code.

(j) All landscaping located on private accessways leading to public or private roadways shall be maintained so as to provide clear visibility for all oncoming traffic from any direction.

(k) All vehicle wheel stops, curbing, and sidewalks located within the off-street parking lot area are to be maintained properly to insure safe and convenient vehicle and pedestrian traffic at all times. Broken, damaged, loose, or missing vehicle bump-stops and curbing, including sidewalks, are to be repaired or replaced.

(1) In single family residential districts, motor vehicle parking on a residential lot shall occur upon the existing driveway, however, if overflow parking upon the grass or unpaved portion of the lot shall be necessary, the owner or occupant shall ensure the following: 1. vehicles do not block the line of sight for safe ingress/egress of any vehicles; 2. vehicles are aligned upon property by parking parallel to the existing driveway; 3. vehicles are parked upon the swale abutting the subject property for a temporary period not to exceed twenty four (24) hours; and 4. all grass and groundcover shall be maintained in good condition.

Section 6-15.20 Western Theme Overlay District

(a) The Western Theme Overlay District Development Manual (Manual), Section V, Architectural Standards, Subsection B.17, Outdoor Lighting shall provide the lighting standards and specifications pertaining to all properties located in the Western Theme Overlay District.

(1) Outdoor lighting illumination average and maximum illumination range requirements as provided for both commercial and residential areas shall be maintained as per the manual.

(2) Pole and wall mounted fixture height requirements for both vehicular and pedestrian areas shall be maintained as per the manual.

(3) Light spillage limits onto adjacent properties shall be maintained and not permitted to exceed those approved by the manual.

(b) All signs and sign lighting in the Western Theme District shall be maintained in good repair at all times as it was in the approved original and permitted condition.

Section 6-15.21. Signs and lighting.

(a) All signs and sign lighting shall be maintained in good repair at all times as in the approved original and permitted condition.

(b) No sign or sign lighting shall be maintained in any fashion that shall create a nuisance condition which negatively affects the health, safety, or welfare of the public.

Section 6-15.22. Graffiti declared to be a public nuisance

On June 18, 2008 Ordinance No. 2008-20 “The Town of Davie Graffiti Prevention and Removal Ordinance” was passed by the Town Council. For specific information related to the Graffiti Ordinance, refer to Article IV, Graffiti Prevention and Removal, Section 16 of the Town Code. As defined in the Graffiti Ordinance, graffiti means “any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, or painted on any surface of public or private property, including but not limited to buildings, structures, or places.” For the purposes of this Article, graffiti may also consist of any type of adhesive paper sticker, flexible or non-flexible plastic, or any material that can be easily attached to benches, poles, signs, walls, electrical control boxes, or any public or private property within the Town and shall be defined as a public nuisance for the purpose of enforcing the minimum standards of the Town.

Section 6-15.23. Post-demolition standards for all property

This section provides the specifications that describe the conditions that are required after the demolition of a building or structure to insure that the result is a vacant lot that is prepared for use or redevelopment.

(a) Building, Structure, Foundation, and Accessory Structures

(1) The demolition of a primary building or structure shall include the removal of all walls, doors, windows, porches, roof, garage, or any secondary structure attached to the primary building.

(2) Any secondary building or structures that are separated from the main building or structure on a lot or property are also to be demolished, including storage sheds, barns and garages. Any type of animal housing, including but not limited to dog houses, kennels, runs, stables, pole barns, aviaries and bird houses, are to be demolished at the time the primary building is demolished except with Town approval.

(3) In-ground swimming pools and any foundation for above-ground swimming pools or related accessory equipment for either type of pool shall be removed upon the demolition of the primary structure except with Town approval.

(4) The demolition of any septic tank and/or drain field and all remnants thereof shall be properly permitted for removal, including the sanitization of the affected areas as required by the state, county or local health department standards.

(5) The entire foundation of any building or structure shall be removed at the time of demolition of the primary building or structure unless said foundation may be included in the architect’s or engineer’s plans for reconstruction.

(b) Signs, Poles, and Landscaping

(1) All signs, sign frames, and their supporting structure that exists on the lot or property where a primary building or structure is demolished are to be removed in conjunction with the demolition of the building or structure.

(2) Any pole that supports a sign, lamp, light, birdhouse, landscaping, or any other type of structure on the property is also to be removed when the primary building is demolished.

(3) The removal of all landscaping bushes, shrubs, small trees, or any type of plant used for landscaping purposes is to be approved by the Town’s landscape inspector or his designee when the primary building is demolished.

(4) The borders surrounding landscape beds, including borders using bricks, lava rocks, any other type of rock, wooden 4-by-4's, railroad ties, plastic materials (commonly used to separate landscaping from grass lawns), or other material used as a landscape border shall be removed at the time the primary building is demolished, after a Town landscape inspector or a designee has approved the same.

(c) Asphalt Driveways

(1) Any asphalt driveway and its connection to a roadway or street are to be removed when the primary building or structure is demolished.

(2) The removal of a driveway requires the removal of any asphalt and concrete materials found thereupon.

(3) When the removal of an asphalt driveway causes a significant difference in the height of the soil underneath the driveway and the soil adjacent to the driveway, including the point where the driveway connects to the local street or roadway, the height difference shall be graded to any connecting street or roadway.

(4) An engineering permit shall be obtained from the Town's Engineering Division for all demolition involving an asphalt driveway and connections to any roadway or street prior to the demolition of the primary structure.

(d) Fences

(1) Any fence, whether it is made of wood, rock, concrete, chain-link, plastic, PVC (poly-vinyl-chloride) or any other fence-type material, including reusable materials, located on the property may be removed when the primary building or structure is demolished unless otherwise directed by the Town.

(e) Curb Cuts and Sodding Lot

(1) Non-conforming curb cuts shall be removed at the request of the enforcing agency. Each property is allowed one access connection to an adjacent road. If additional access connections exist, they are to be removed and replaced with curb and gutter when no Town approval authorizing such curb cut exists. In residential areas where a property may have a circular driveway, a second access connection to the local street is allowed.

(2) After a property has been cleaned of all materials, the lot shall be covered with drought tolerant sod or Town-approved ground cover.

Section 6-15.24. Declaration of a structure or dwelling as unfit for human occupancy.

(a) The designation of structures or premises as unfit for human occupancy or use, and the procedure for the posting and vacating of such unfit structures or premises shall be executed by the Town as provided in this section.

(b) The Town may seek to have the Special Magistrate declare a structure or premises unfit for human occupancy or use upon the finding of a violation of the Minimum Housing and/or Unsafe Structures Codes. A structure or premises is unfit for human occupancy or use if it or conditions present in it pose a serious threat to the life, health, safety and/or welfare of the owner or occupants of the structure or the public.

(c) When seeking a declaration by the Special Magistrate that a structure or premises is unfit for human occupancy or use, the Town shall have the burden of proof for such declaration by the standard of a preponderance of the evidence.

(d) The Special Magistrate shall inform all interested parties that a declaration that a structure or premises is unfit for human occupancy or use will require the structure or premises, or portion thereof, to be vacated within seven days and not reoccupied until a certificate of compliance is issued by the Town.

(e) If the Special Magistrate determines that the structure or premises is unfit for human occupancy and/or use pursuant to this section, the Special Magistrate shall issue an order that:

(1) Identifies the structure or premises by the property identification number and/or legal description found in the Broward Property Appraiser's public records;

(2) Provides a detailed summary of the Special Magistrate's findings of fact which served as the basis for the declaration that the structure or premises is unfit for human occupancy and/or use; and,

(3) Declares the structure or premises to be unfit for human occupancy and/or use.

(f) When the Special Magistrate issues an order declaring that a structure or premises is unfit for human occupancy or use, the Town shall send notice, pursuant to section 6-15.10 (k), that orders the structure or premises, or portion thereof, to be vacated within seven days of the date of the Special Magistrate's Order and not reoccupied until a certificate of compliance is issued by the Town. Such notice shall describe the conditions for which the structure or premises has been declared unfit for human occupancy or use. The Town shall record the Special Magistrate's order declaring that a structure or premises is unfit for human occupancy or use in the public records of Broward County.

(g) Once a property owner or other interested party has corrected the conditions for which the Special Magistrate issued an Order declaring that the structure or premises is unfit for human occupancy or use to the satisfaction of the enforcing agency, the Town shall issue a certificate of compliance. The certificate of compliance may be recorded in the public records of Broward County at the expense of the property owner or other interested party.

(h) Seven days after issuance of the Special Magistrate's declaration that a structure is unfit for human occupancy or use, the Town shall post upon the structure or premises determined to be unfit for human occupancy or use a placard signed by the Town Administrator or designee indicating that the structure or premises is unfit for human occupancy or use. No person shall deface or remove this placard unless expressly authorized to do so by the Town. The placard shall contain the following script:

**“THESE PREMISES ARE UNFIT
FOR HUMAN HABITATION, OCCUPANCY OR USE”**

Notice is hereby given pursuant to Section 6-15 of the Town of Davie Code of Ordinances that this building, structure or premises is not fit for human habitation, occupancy or use, and as such, it shall not be used or occupied. Those persons violating this notice shall be subject to arrest and punished as provided by the Town Code of Ordinances and any legal remedy available in Florida law. This notice shall not be removed except by the authority of the Town.

Sec. 6-15.25. Proof of correction before the special magistrate.

The Special Magistrate shall deny, without prejudice, a declaration that a structure is unfit for human occupancy or use if any interested party, appearing before the Special Magistrate proves by a preponderance of the evidence that each of the conditions present in the structure or premises and for which the Town is seeking a declaration has been corrected or repaired prior to the hearing.

Sec. 6-15.26. Subpoena powers.

The Code Enforcement Officer, Special Magistrate, Town Attorney or Code Prosecutor and the alleged violator may request that witnesses and records, including surveys, plats and other materials, be subpoenaed to any formal hearings. Subpoenas may be served by officers of the Police Department of the Town, police aides or other such persons authorized to deliver subpoenas. The Special Magistrate shall provide the Clerk with sufficient signed and blank witness and document subpoenas to be provided to alleged violators and the Code Enforcement Officer for the purpose of having witnesses and records subpoenaed. For each subpoena served by the Town, the violator shall pay to the Town a fee equal to twenty five dollars (\$25) or actual costs as determined by the Town agency.

Sec. 6-15.27. Calling of emergency Special Magistrate hearings.

The Special Magistrate may call an emergency Special Magistrate hearing. Written notice of any emergency hearing shall be given to an alleged violator, if circumstances permit, at least one day in advance of such hearing by posting a notice at the location of the violation. The Special Magistrate may hear any motion to set a future hearing date based upon good cause from affected parties with standing in the case.

Sec. 6-15.28. Authorized inspections.

(a) The enforcing officers shall be authorized to make inspections to determine the condition of all residential buildings, dwellings, structures and premises within the corporate limits of the Town of Davie in order to safeguard the health, safety, morals and welfare of the public. (b)

The enforcing officers shall be authorized to enter any residential buildings, dwellings, structures or premises at any reasonable time or in an emergency, for the purpose of performing the duties of such office under this article, in accordance with the procedures herein prescribed. Except in emergencies which endanger the public health, safety and welfare and at which time no prior consent shall be required, the enforcing officers shall enter residential and non-residential buildings, dwellings, structures or premises only upon the prior consent of the person lawfully in occupancy thereof or the person having legal right of possession thereof, or in accordance with the provisions of this section. The enforcing officer may request permission to enter and inspect any building, or structure, whether occupied or vacant, at any reasonable time. The enforcing officer shall insure that the landlord or its representative complies with the requirements of Florida Statutes Chapter § 83.53 and provide any residential occupant with the reasonable notice found therein. (c)

In the event that such person refuses to consent to the inspection, the enforcing officer may

apply to the County Court or Circuit Court for the issuance of an inspection warrant to be served by an officer duly authorized by law to serve inspection warrants and make arrests for violations of this article. *[The inspection warrant shall issue in accordance with the requirements of the United States Supreme Court case of Camara v. Municipal Court of the City and County of San Francisco, 18 L. Ed. 2d 930, 87 S. Ct. 1727 (1967), and Florida Statutes, Sections 933.20 - 933.30, and shall authorize entry into and inspection of the premises described therein. Refusal to permit an inspection pursuant to an inspection warrant authorized by this section shall constitute a violation of this article and shall subject the violator to the penalties prescribed herein and by applicable Florida law.]*

(d) Every holder of a local business tax receipt for the operation of residential rental units shall as a condition of the issuance of said local business tax receipt, permit the enforcing officer to inspect any rental residential unit at any reasonable time. Failure to allow access to property for a required inspection may constitute sufficient reason for the denial or revocation of the local business tax receipt for the rental of any dwelling unit(s).

Sec.6-15.29. Obtaining an inspection search warrant.

The Town shall seek an inspection search warrant as follows:

(a) When an enforcing officer believes, based upon reliable evidence, that it is more likely than not that a specific building, structure or premises is in violation of the code of ordinances including but not limited to a building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standard, then the enforcing officer shall:

(1) Swear out an affidavit stating with particularity the basis of the officer's belief, including: (a)

The nature and extent of the suspected violation;

(b) The source(s) of the information on which the officer is basing his/her belief;

(c) The circumstances under which the source(s) of the information obtained the information.

(d) Collect all documentary evidence of the suspected violation and attach that documentary evidence to the enforcing officer's affidavit as incorporated exhibits.

(b) When an enforcing officer believes based upon reliable evidence that it is more likely than not that some structures and/or premises within a group of structures and/or premises are in violation of the code of ordinances that enforcing officer shall:

(1) Swear out an affidavit stating with particularity the basis of the officer's belief about the group of structures and/or premises, including:

(a) The nature and extent of the suspected violation;

(b) The source(s) of the information on which the officer is basing his/her belief;

(c) The circumstances under which the source(s) of the information obtained the information; (d)

Collect all documentary evidence of the suspected violation and attach that documentary evidence to the enforcing officer's affidavit as incorporated exhibits.

(e) The enforcing officer's affidavit, together with the documentary evidence attached thereto, must establish a nexus between each structure and/or premises in the group of suspected structures and/or premises and the testimony and/or documentary evidence upon which the enforcing officer's belief is based.

(c) On behalf of the Town, the Town Attorney or Code Prosecutor shall seek a search warrant from any judge based upon the officer's affidavit and as required by law.

Sec. 6-15.30. Execution of the inspection search warrant.

Once the enforcing officer has received the administrative search warrant, s/he shall execute the search warrant as soon as possible, provided that the time of execution is reasonable. When granted, such warrant shall be executed by a police officer of the Town of Davie Police Department, who shall be accompanied by the enforcing officer.

Sec.6-15.31. Boarding of structures, buildings or dwellings, vacant or non-vacant; Boarding permit required.

The Town recognizes that from time to time it may be necessary to secure real property because of abandonment, disrepair, public hazard or natural disaster. Unsecured property can lead to vandalism problems, occupancy safety problems and appearance problems. The Town feels it necessary to create certain criteria for securing structures. Owners of a building to be boarded or that is currently boarded must apply for a six-month boarding permit. The code requires that an owner is expected to renovate the property or sell it to someone who will renovate it. A single six-month extension may be granted by the Safety Enforcement Team (SET Team) if the owner has been unable to renovate or sell the property to someone who will renovate it. However, if at the end of one year no improvements have been made or are planned, the Town of Davie Minimum Housing and Property Maintenance Standards code requires the structure to be demolished and the property cleaned of any remaining debris.

(a) Real property may be secured via boarding up windows, doors, or other openings upon the issuance of a boarding approval by the SET Team consisting of the Town's building official, fire official, and code compliance official prior to any building permit being issued by the Town's building official for boarding.

(b) Any means of securing property including crime prevention devices shall be subject to review by the Town's building official or fire official for safety and compliance with the latest edition of the Florida Building Code and Fire Prevention Code prior to the issuance of a building permit.

(c) If buildings, structures or premises found in or upon any real property in any zoning district of the Town is secured for more than thirty (30) days, except in the case of a natural disaster, the boards, panels or other means of securing structural openings shall be painted to match the exterior color of the building.

(d) If any property shall be deemed an abandoned property under code section 6-9.2, then provisions for SET Team boarding approval shall not be applicable in the initial registration stage not to exceed a year, but shall apply at all times thereafter as when a registration renewal or building permit for renovation may be applied for.

Section 6-15.32 Nuisance To Be Declared

(a) Any vacant and unoccupied building that has doors, windows, or other openings that are broken or missing, thereby allowing access to the interior, or boarded buildings that

are not secured in compliance with methods approved by the building official or boarding that has been undertaken without a boarding approval from SET shall hereby be declared a nuisance, and shall be brought before the Unsafe Structures Board and/or Special Magistrate and be required to demolish the building or correct violations of the applicable codes and be subject to fines, liens and cost recovery fines.

(b) Any vacant and unoccupied building of which doors, windows, or other openings are secured by boarding, but for which there is no active building permit as required by the Florida Building Code or SET boarding approval shall hereby be declared a nuisance and be brought before the Unsafe Structures Board and/or Special Magistrate and be required to demolish the building or correct violations of the applicable codes and be subject to fines, liens and cost recovery fines.

Section 6-15.33. Renovating a Property

(a) The owner of a property that has been declared to be a nuisance has the option of renovating the property to comply with all requirements of the original site plan, including the landscaping plans. Under no circumstances shall renovating a property be intended to mean simply removing boards, provided the building has been boarded. The intent of renovating is to make the property like new again, thereby decreasing negative impacts to the property values of nearby properties.

(b) If the property owner intends to modify the building or structures on the property, including landscaping, and the modifications exceed the thresholds specified in Section 12-374 of the Town Code, the owner must submit a new site plan to include landscaping plans in conformance with the site plan modification requirements of the Town's Planning and Zoning Division as provided in the Town of Davie Land Development Code Article XII Subdivisions and Site Plans, Division 3, Site Plan Requirements and Procedures.

Section 6-15.34. Western Theme District and CRA property

(a) Western Theme District

(1) If the property to be renovated is located within the Western Theme District, all renovations to any structure on the property, including lighting and landscaping must meet the Architectural and Landscaping standards described in Sections IV and V, respectively, of the Western Theme Overlay District Development Manual.

(b) All renovations in the Western Theme District in addition to meeting all site plan approvals, building code and permit issues shall also be approved by the Redevelopment Administrator of the Community Redevelopment Agency.

Section 6-15.35. Building permit required for boarding a building

(a) Any unoccupied or occupied dwelling, building, structure or premise which is boarded without a Town-issued building permit for boarding the building in a manner approved by the building official shall constitute a nuisance and deemed to be in violation of the Town code.

(b) Any building that is found to be in violation of the code shall be given thirty (30) days to comply with the code by the code inspector. If an active building permit has not been obtained at the end of a thirty (30) day period or the boarding has not been removed and occupancy resumed, the owner, operator, or responsible party shall be issued a citation or a notice of violation to appear before the Special Magistrate or the Unsafe Structures Board as needed.

(c) All buildings which are currently boarded without having acquired a building permit or Town approval at the time such boarding occurred, shall at the time that this code is approved by the Town Council be required to obtain a boarding approval issued by the SET Team and acquire a building permit from the Town's building official.

(d) No person shall erect, install, place, or maintain boards over the doors, windows, or other openings of any building or structure, without first applying for a boarding approval issued by the SET Team, and thereafter applying for and obtaining a valid and current building permit issued by the Town's building official.

(e) The SET Team shall review a boarding approval application upon its submission by the owner of the property, his/her agent or contractor and payment of the required administrative fee equal to two hundred and fifty dollars (\$250.00) per each approved period;

(f) The boarding approval issued pursuant to this section shall authorize the applicant to proceed to application for a building permit; the boarding approval may only allow the boarding or securing of a building or structure for a period of no greater than six (6) months from the date such boarding approval is granted. When a property owner, or a representative or contractor, seeks renewal of the boarding approval, they must file a written request with the SET Team no later than thirty (30) days prior to the expiration of the current boarding approval. Renewal of the SET Team boarding approval may be considered for an additional six (6) months after the first six (6) month period has expired by the SET Team upon the payment of an additional administrative fee of five hundred dollars (\$500.00) provided such extension is approved. However, in no case shall the boarding approval exceed a maximum time limit of one (1) year. If that time limit has been reached, and the building remains boarded, the property owner or representative shall be brought before the Unsafe Structures Board and/or Special Magistrate and be required to demolish the building or correct all violations of the applicable codes and be subject to fines, liens and cost recovery fines.

(g) The owner, owner's agent, or contractor shall submit to the Town building official, prior to the Unsafe Structures Board hearing or Special magistrate hearing, a detailed plan for the correction, repair, or rehabilitation of violations by the method used in the original construction and design of the building or structure that will enable the building to be occupied again, or alternatively, submit to the SET Team, a detailed plan for sale of the property to another person or entity with provision in the sale agreement for the correction, repair, or rehabilitation of the property violation that will enable the building to be occupied again. All property sales or transfers of any ownership interests which may affect the status of the property and the correction of violations must adhere to those disclosure provisions found in Chapter 162, F.S.

(h) The owner, owner's agent, or contractor shall submit to the SET Team, prior to the Special Magistrate hearing, a timeline for applying for all appropriate building or other Town, county or state permits for correction, repair, or rehabilitation work and for

completing such work prior to the expiration of the boarding approval renewal certificate, or alternatively, a timeline for the sale of the property. All property sales or transfers of any ownership interests which may affect the status of the property and the correction of violations must adhere to those disclosure provisions found in Chapter 162, F.S.

(k) The boarding approval may be revoked by the SET Team if the owner fails to comply with the plan for such work, allows any permits or boarding approval to expire or fails to adhere to the submitted timeline. Additionally, if the owner, or owner's agent, has not complied with any requirements stated herein at the expiration of the first six months' boarding approval, the property will be declared unsafe and a request to be demolished shall be presented to the Unsafe Structures Board.

(i) A boarding approval may not be extended beyond the initial six (6) month period except upon demonstration that good cause for the renewed approval exists. Good cause shall require a showing of proof by the owner that the renewal is necessary due to conditions or events beyond the owner's control, such as the inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in rehabilitation construction, or unanticipated damage to the property.

(j) In addition, where appropriate, good cause shall also require a showing by the owner that the owner has exercised reasonable and due diligence in attempting to complete the needed correction, repair, or rehabilitation, or is attempting to sell the property. If it is determined that there exists good cause to renew the certificate, the certificate may be renewed for a period of up to, but not more than, an additional six (6) months, subject to all of the same conditions imposed in the original renewal certificate. The renewal of the boarding approval will result in a maximum time period of one-year for the boarding of a building. However, in no case shall the boarding of a building exceed a one-year time limit, meaning that no additional six (6) month boarding certificates may be granted for the boarding of a building that has been boarded for one-year from the initial date of the boarding approval certificate. If that time limit has been reached, and the building remains boarded, the property will be declared unsafe and subsequently required to be demolished. When a building is to be demolished, the requirements that must be met for demolishing the building or structure are provided in Section 6-12.15.

Section 6-15.36. Standards for securing a building

(a) Compliance with Town Specifications. The boarding of the doors, windows, or other openings of any building or structure, or any means of securing such openings, other than by conventional method used in the original construction and design of the building or structure, shall comply with the specifications as required by the Town.

(b) All utility service to the building or structure shall be terminated by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the Town regarding electric service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with the rehabilitation of the building or structure for which there is an active and current building permit.

(c) The sewer shall be capped in a manner approved by the Town so as to prevent the accumulation of methane gas in the building or structure.

(d) The interior of the building or structure shall be cleaned of all trash, junk, garbage, debris, and solid waste in accordance with applicable Town franchise agreements. Personal possessions shall be removed from the interior of the building or structure, so as to eliminate any fire or health hazard and to prevent hindrance to firefighting equipment or personnel in the event of a fire.

(e) Exceptions:

A SET Team boarding approval shall not be required in the following circumstances:

(1) Temporary emergency situation, including, but not limited to, the boarding or shuttering necessary for the preparation of an approaching hurricane, or damage to a building or structure caused by the weather or fire, or as may be deemed appropriate by the enforcing agency.

Section 6-15.37. Boarding in Hurricane Season

The owner or agent of any structure or building that has been boarded during hurricane season shall remove the boards or hurricane shutters no later than one week after the end of the hurricane season. If the hurricane shutters have not been removed by that time, the structure or building will be considered to be in violation of code, except when the building, dwelling or structure has a SET Team boarding approval and active building permit for the renovation thereof, or is subject to any exception found in this article.

Section 6-15.38. Costs Incurred by the Town and Assessment of Lien.

(a) All costs incurred by the Town based upon actions taken by the Town to resolve violations of Section 6-15 shall be charged and billed to the person in violation of Section 6-15 and/or the property owner. Unless payment is made within thirty (30) days of such billing, the enforcing agency may levy such charges, to be assessed against the property as a lien in the amount of the charges outstanding which shall include applicable administrative costs and fees. Any liens levied in this manner shall be filed in the office of the Town Clerk, and in the public records of Broward County as a lien against the property and shall be prior in dignity to all other liens against the property, save and except a lien for taxes. Such assessments shall bear interest at the legal rate and such liens may be foreclosed in the same manner in which code enforcement and mortgage liens are foreclosed.

Section 6-15.39. Boarding and securing limitations.

(a) No owner shall board and secure any building subject to the provision of this section, without first obtaining a SET Team boarding approval and a building permit after paying all the required fees.

(b) The building official may consider to waive fees when such boarding and securing is necessary as a result of natural disaster or fire.

(c) The enforcing agency shall examine the structure for compliance with the minimum standards and property maintenance code or any applicable state, or Town ordinance or regulation.

(d) The building official or enforcing agency shall give to the owner of the property a written report of

their findings and what corrections are required for the building, dwelling or structure to be in compliance with this code and any other Town regulations.

(e) The SET Team shall monitor the building during the board and secure period. If at any time the SET Team determines that the building, dwelling or structure's condition has deteriorated and the owner of the property is failing to maintain the premises, a Special Magistrate hearing shall be scheduled at the earliest time.

(f) If the building official shall determine that the cost of corrective measures for a particular property exceeds fifty (50) percent of the assessed value determined from the Broward County property appraiser's most recent property assessment, the building official or his representative may bring the owner of the property before the unsafe structures board in order to obtain prompt correction of the condition in full conformity with all applicable regulations.

Sec. 6-15.40. Enforcement and penalties; recovery of unpaid civil penalties; unpaid penalty to constitute a lien; interest to be paid on liens; foreclosure; prohibition of the issuance of permits, licenses, certificates of use and occupancy, or zoning approvals to violators with unpaid civil penalties or liens.

(a) It shall be within the discretion of the enforcing agency to determine whether a violation of this section of the code shall be cited by direct citation, in accordance with the requirements of the code enforcement special magistrate, in accordance with the requirements of the unsafe structures board, or any other appropriate enforcement action permitted by the Town Code of Ordinances and/or any available legal remedy or methods.

(b) All enforcement action undertaken by the Town and any resulting penalties and fines applied by the enforcing agency shall remain consistent with the fines and fees adopted by Town ordinance, including the assessment of cost recovery fees adopted by the Town Council.

(c) The Town of Davie may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.

(d) A certified copy of an order imposing a civil penalty may be recorded in the Broward County public records and thereafter shall constitute a lien against the land on which the violation exists or upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing of any such lien which remains unpaid, the Town may foreclose or otherwise execute on the lien.

(e) Liens created pursuant to Section 6-15 may be discharged and satisfied by paying to the Town of Davie the amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the rate of twelve (12) percent per annum, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records. When any such lien has been

discharged, the Town of Davie shall promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records. Any person, firm, corporation or legal entity, other than the present owner of the property involved, who pays any such unsatisfied lien shall be entitled to receive an assignment of the lien held by the Town and shall be subrogated to the rights of the Town in respect to the enforcement of such lien, as permitted by law.

(f) Notwithstanding any provision of this Code, no Town officer, agent, employee or Board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, municipal local business tax receipt, platting action, or zoning action to any named violator with (i) unpaid civil penalties; (ii) unpaid administrative cost recovery fees; (iii) unpaid Town enforcement costs; or (iv) unpaid liens, any or all of which are owed to the Town of Davie pursuant to the provisions of the Town of Davie Code of Ordinances, Broward County, Florida.

SECTION 3. CONFLICT. Where any provision of Chapter 6-15 is found to be in conflict with a provision of any zoning, building, electrical, plumbing, fire, safety, or health ordinance, or any regulation adopted pursuant thereto, or any other ordinance, code, or regulation of the Town, the more stringent standard shall prevail.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. CODIFICATION. It is the intention of the Town Council of the Town of Davie, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Town of Davie, Florida; that the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; that the word “ordinance” may be changed to “Section,” “Article,” or other appropriate word.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2010

PASSED ON SECOND READING THIS ____ DAY OF _____, 2010

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2010